

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

SOUTH BOSTON ENERGY, LLC D/B/A
NOVEC ENERGY PRODUCTION
HALIFAX COUNTY BIOMASS,

Plaintiff,

v.

No. 1:18-cv-00596-LO-MSN

HARTFORD STEAM BOILER SPECIALTY
INSURANCE COMPANY,

Defendant.

STATEMENT OF UNDISPUTED FACTS

In accordance with this Court's June 6, 2018 Order [Doc 4], this statement of undisputed facts is submitted together by (a) the Plaintiff, South Boston Energy LLC, d/b/a/ NOVEC Energy Production Halifax County Biomass, a wholly owned subsidiary of Northern Virginia Electric Cooperative (herein referred to collectively as "NOVEC"); and (b) the Defendant, The Hartford Steam Boiler Specialty Insurance Company ("HSB").

This statement is intended to be neutral as to the disputes that exist between the parties, without favoritism to one party or the other.

The Parties

1. The Plaintiff, Northern Virginia Electric Cooperative, or "NOVEC" for short, is a Virginia corporation with its principal place of business in Manassas, Virginia.

2. The Defendant Hartford Steam Boiler Insurance Company, or “HSB” for short, is an insurance company engaged in the business of selling contracts of insurance, including in the Commonwealth of Virginia.

The NOVEC Power Plant

3. In 2013, NOVEC opened an “Energy Production Biomass Plant” in South Boston, Halifax County, Virginia (southwest of Richmond) (the “South Boston Plant”).

4. The South Boston Plant generates electricity using a “50 Megawatt Alstom Steam Turbine Generator”—the “Turbine” for short.

5. The Turbine was manufactured by a company named Alstom Power, which is now part of General Electric (“GE”).

The HSB Insurance Policy

6. NOVEC purchased “boiler and machinery” insurance from HSB to cover the Turbine and other plant equipment, subject to the terms and conditions of the policy.

7. The HSB boiler & machinery policy issued to NOVEC is policy no. NHX5212031, covering the period December 31, 2015 through December 31, 2016 (the “Policy”).

8. The Policy provides \$175 million limits of liability for “Property All Risk,” excess of a \$500,000 “per Occurrence” deductible.

NOVEC’s Discovery of Foreign Metal Part

9. In the spring of 2016, NOVEC took the Turbine offline for a regularly scheduled maintenance inspection.

10. The regular maintenance involved a borescope inspection into the interior of the Turbine (basically, a flexible tube with a camera). The borescope inspection was conducted by the manufacturer Alstom on April 28, 2016.

11. The borescope inspection revealed a piece of foreign metal lodged inside the Turbine that was not part of the Turbine's design. It had been inside the Turbine since the manufacture and assembly of the Turbine and remained there until it was discovered in April of 2016.

The Insurance Claim

12. On May 16, 2016, NOVEC first provided notice to HSB of the insurance claim under the HSB Boiler & Machinery insurance policy.

13. On May 18, 2016, HSB acknowledged receipt of the insurance claim and assigned adjuster Jill Baur to handle the claim.

14. NOVEC submitted a total claim to HSB for \$1,270,635, for the cost to disassemble the Turbine, repair the damage to blades and seal strips, reassemble the Turbine, and other expenses related to the damage. Less a deductible of \$500,000, NOVEC asked HSB to pay the balance of \$770,635.

Dated: February 14, 2019

Respectfully submitted,

/s/ Kristin C. Davis

Kristin C. Davis (VSB No. 78419)
Gary Thompson (admitted *pro hac vice*)
Julie L. Hammerman (admitted *pro hac vice*)
THOMPSON HAMMERMAN DAVIS LLP
1015 15th Street, NW, Suite 600
Washington, DC 20005
(202) 256-9910
KDavis@thompsonhd.com
GThompson@ thompsonhd.com

JHammerman@ thompsonhd.com

*Attorneys for Plaintiff South Boston Energy LLC d/b/a
NOVEC Energy Production Halifax County Biomass*

/s/ Elizabeth S. Skilling

Elizabeth S. Skilling (VSB No. 28063)
Robert F. Friedman (VSB No. 82118)
Attorneys for HSB Specialty Insurance Company
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
eskillings@hccw.com
rfriedman@hccw.com

*Attorneys for Defendant Hartford Steam Boiler Insurance
Company*